Teresa S. Sampleton, CFP®, CPA
Vice President
Sampleton Wealth Management

230 Park Ave. West
12th Floor
New York, NY 10169

(888) 336-6884

teresa.sampleton@SampletonWealth.com
www.sampletonwealth.com

SAMPLETON WEALTH MANAGEMENT GROUP

6 Documents You Need to Preserve Family Legacy

By Debra Taylor, CPA/PFS, JD, CDFA

You may be surprised at some of the documents we recommend when it comes to estate planning and generational wealth transfer.

Leaving a lasting legacy for your family requires smart planning now. Intergenerational wealth transfers can create havoc within the family if not handled correctly. We discuss below six documents that you should have in order to protect the wealth and the harmony of the family.

1. AN UPDATED ESTATE PLAN

It may astound you just how many people do not have an updated estate plan, reflecting their most current desires. Indeed, studies show that up to 68% of Americans may have no estate plan at all. It is equally disturbing that even if these estate plans are updated to reflect the desires of the benefactors, many are woefully inadequate when it comes to addressing federal and state inheritance or estate taxes.

Your estate plan should be reviewed (and possibly updated) at least every three years. In addition, of course, an estate plan should be updated if there is any change of circumstances in the family, such as a birth, death, marriage or divorce. Also, the estate plan should be updated if there is a relocation to a different state, because varying state laws do have an impact on probate and taxes.

And, to be clear, a comprehensive estate plan should include a will, durable power of attorney, and a living will/health care power of attorney.

2. VARIOUS TRUSTS, WHERE APPROPRIATE

Trusts can be a very important tool in the estate planning process for the very wealthy. Particularly with the expiration of the Tax Cut and Jobs Act looming right around the corner (sunsetting in 2025), trusts may be coming back in vogue to address a potentially decreased lifetime exclusion.

Trusts can come in all shapes and sizes, and can accomplish much, but they also have their limitations. Truly understanding your situation, including your finances, your concerns, and your goals is a necessary prerequisite to creating the appropriate trusts.

3. PERSONAL PROPERTY MEMORANDUM

In most instances, it makes sense for you to draft a separate personal property memorandum designating to whom their personal property, such as jewelry, automobiles, and collectibles, should go. Because estate plans are governed by state law, some states do not recognize a personal property memorandum.

4. LEGACY LETTER

This is not necessarily a legally binding document, as this document focuses more on the emotional aspects of the relationship outside of the will and trusts. Having said that, a legacy letter can be very helpful in explaining certain bequests, and communicating wishes to the heirs once you have passed. The legacy letter can be particularly helpful if there is an unequal distribution of assets or wealth at the parent's death. It is also a great way to communicate your last hopes and wishes.

5. FAMILY GOVERNANCE PLAN

As with all the documents discussed above, a family governance plan should be in place before you need it. This document can also be thought of as a conflict management policy, where roles and responsibilities are outlined in the event of an emergency. It can also address how to resolve conflicts within your family. These conflicts can arise over money, family investments, the family vacation home or any other item that could trigger dissension. You would be surprised! In addition, you may also want to address the "family mission," and any philanthropic efforts that should be continued.

In addition, you want to outline the "next steps" so that everybody understands their role if the founders are incapacitated or otherwise compromised or unavailable. Some call this a "just in case" plan or a "person in charge" (PIC) plan, but whatever you call it, there should be some type of contingency plan in place. This way, we don't have jockeying for position, power grabs, infighting and coalitions being formed or hard feelings during a crisis.

6. SUCCESSION PLAN FOR THE FAMILY BUSINESS

If there is a family business, then there should also be some type of succession plan in place, particularly if several members of the family are working in the business. Too often, we see that everything is handled very informally for decades, and misunderstandings can occur that create significant issues between the adult children.

It is important to address some of these issues and formalize as much as possible while everybody is healthy, willing to work together, and the lines of communication are still open. This way everybody understands how their future will be impacted and what is expected of them when the inevitable succession takes place.

Debra Taylor, CPA/PFS, JD, CDFA, writes on tax and retirement planning for Horsesmouth, an independent organization providing insight into the critical issues facing financial professionals and their clients.
